UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,192	08/21/2003	Scott F. Watson	038.P010	9068

60226   7590   07/09/2009
DISNEY ENTERPRISES, INC
C/O BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

EXAMINER
HUYNH, SON P

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
07/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/646,192	WATSON ET AL.
Office Action Summary	Examiner	Art Unit	
	SON P. HUYNH	2424	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>*30 December 2008 and 17 March 2009*</u>.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>*4-16,18-35,37,41-48,52-68 and 72-169*</u> is/are pending in the application.

     4a) Of the above claim(s) <u>*43-48,60,62,64-68 and 130-133*</u> is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>*4-16,18-35,37,41,42,52-59,61,63,72-129 and 134-169*</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

12/30/2008 has been entered.

Election/Restrictions

2.   Applicant's election without prejudice of group I, claims 4-16, 18-35, 37, 41-42,

52-59, 61, 63, 72-129, 134-169, in the reply filed on March 17, 2009 is acknowledged.

Response to Arguments

3.   Applicant's arguments with respect to claims 4-16, 18-35, 37, 41-42, 52-59, 61,

63, 72-129, 134-169 have been considered but are moot in view of the new ground(s) of

rejection.

Applicant argues Hunter teach away from the subject matter claimed and, instead, is directed to real-time deliver of movie content or compressed real-time delivery. Hunter is directed to real-time delivery or compressed real time delivery. Therefore, Hunter could not be modified to effectively multiplex content and metadata over airwave in packetized form... (pages 26-27, 29). This argument is respectfully traversed.

It is noted that Hunter, through the specification, does not disclose packetized movie data are not used/prohibited to use in the system. Instead, Hunter discloses broadcasting data in packets (paragraphs 0214-0216); storing movies in DVD, CD, or other storage device (paragraph 0012) and video data are compressed as compressed video files (par. 0164). Modifications may be made to the system (paragraph 218). In addition, Examiner provides US 5,612,742; US 7,155,735; 5,831,662 (col. 4, lines 1-41); US 6,502,139 as some example of broadcasting compressed data as packetized data.

It is further noted for discussing question of obviousness of claimed subject matter involving a combination of known elements, KSR Int'l v. Teleflex, Inc., 127 S. Ct. 1727 (2007), explains:

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Sakraida [v. AG Pro, Inc., 425 U.S. 273 (1976)] and Anderson's-Black Rock,

For reasons given above, rejections on claims 4-16, 18-35, 37, 41-42, 52-59, 61,

63, 72-129, 134-169 are analyzed as discussed below.

Claims 43-48, 60, 62, 64-68, 130-133 have been withdrawn.

Claims 1-3, 17, 36, 38-40, 49-51, 69-71 have been cancelled

Claim Objections

4.   Claims 10-16, 105-108, 76-79, 95-97, 162-165 are objected to because of the

following informalities:

Claim 10 , line 16 recites "move data" should be changed to – movie data—

claim 76, line 2 recites 'the hard drive" should be changed to - a hard drive-

claim 95, line 3, recites "the form" should be replaced as – a form--

  Appropriate correction is required.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

6.   Claims 23-25, 112-115 are rejected under 35 U.S.C. 101 as not falling within one

of the four statutory categories of invention. While the claims recite a series of steps or

acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to

particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The claimed method comprising collecting...., is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example, transmitting metadata and content could be performed via mail, and "software" could be instructions on paper.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 4-16, 18-35, 37, 41-42, 52-59, 61, 63, 72-77, 79-129, 134-169 rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (US 2002/0056118) in view of Weaver, III, et al. (US 2002/0015496).

Regarding claim 4, Hunter discloses a method of wirelessly broadcasting a movie to a set top box (broadcast movie to user station wirelessly, wherein the user station in form

of a DBS (or cable) system "set top box" - see include, but not limited to, figure 11,

paragraphs 128, 138-139), the method comprising:

wirelessly broadcasting movie data to a set top box so that the movie data

broadcast to the set top box is capable of being stored and assembled to form at least

one full movie and associated metadata, so that the movie data broadcast to the set top

box, after full assembly, is further capable of being analyzed based at least in part on

the associated metadata, and so that the at least one full movie is viewed based at least

in part of the analysis of the metadata and in response to a user's selection of at least

one full movie (wirelessly broadcasting movie data in movie(s) to the user station and

movie data of movie(s) is capable of being stored and assembled movie data with title,

time, header information, etc. at the user station to form at least one movie and

associated data such as title, header information, etc.; the title, header information, etc.

associated with a movie is analyzed and used for selection of a movie to view by a

user/customer- see include, but not limited to, figure 11, paragraphs 0128, 0138-0139,

141, 143-144,147-151).

Hunter is silent about movie data is broadcast as packetized movie data, the

packetized movie data is incrementally assembled.

Weaver discloses wirelessly broadcast movie data packetized (wirelessly broadcast

content packets including video, audio, etc. - par. 0018-0020), packetized movie data is

capable of being incrementally assembled to form at least one full movie (content

packets is recompiled/reassembled into original data -see include, but not limited to,

par. 0018) and associated metadata (information that allow the content to be realized, selected, and/or reassembled such as packet ID, tag information, time, title, etc. - see include, but not limited to, par. 0018,20, 25, 39, 65-66), the packetized movie data, after full assembly, is capable of being analyzed based on at least in part on the associated metadata, the movie data is viewed based at least in part on the analysis of the metadata and in response to user's selection of the at least one full movie (see include, but not limited to, par. 0018-20, 25, 50, 0065-0068, figure 8). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hunter with the teaching as taught by Weaver in order to yield predictable results such as to improve efficiency data transmission.

Regarding claim 101, Hunter in view of Cruz-Riveral discloses the method as discussed in the rejection of claim 4. Weaver further discloses the wireless broadcasting comprises datacasting (figure 7, par. 0037). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hunter with the teaching as further taught by Weaver in order to yield predictable results such as to provide multiple services in a signal thereby improve efficiency in data transmission.

Regarding claim 102, Hunter in view of Cruz-Riveral discloses the method as discussed in the rejection of claim 101. Weaver further discloses the datacasting comprising transmitting the packetized movie data via terrestrially broadcast standard television signals (see include, but not limited to, figure 7, paragraphs 0021, 0037-0038, 0063).

Regarding claim 103, Hunter in view of Weaver discloses the method as discussed in

the rejection of claim 102. Hunter in view of Weaver further discloses transmitting a

media asset such as advertisement, web page, etc. over a network to be integrated for

viewing with packetized movie data (see include, but not limited to, Hunter: figure 11,

paragraphs 0150, **0153**, 0158-0159; Hunter: par. 0037, 0047, 0048, 0050, 0064-0065).

Regarding claim 104, Hunter in view of Weaver discloses the method as discussed in

the rejection of claim 103. Hunter in view of Weaver further discloses the network

comprise the Internet (see Hunter, figure 11; Weaver: figures 1-2,7).

Regarding claim 5, Hunter in view of Weaver discloses the method as discussed in the

rejection of claim 102. Hunter in view of Weaver further discloses the packetized movie

data broadcast to the set top box, after being full assembly, is further capable of being

viewed upon or after agreement to charge the user a fee for viewing the at least one full

movie (see include, but not limited to, Hunter: par. 128, lines 30-43, par. 147-150, 154;

Weaver: par. 0039, 43, 51, 0065).

Regarding claim 6, Hunter in view of Weaver discloses the method as discussed in the

rejection of claim 102. Hunter in view of Weaver further the movies are available to the

customer over a period of time (par. 0141), and the movie remains in storage for a

minimum period of time, say one week, regardless of "traffic" through the storage device

(par. 0144). Inherently, the associated metadata comprises information such as time stamp which determine begin and end dates for permitted movie viewing (e.g. begin date is begin of "one week" and the end date is the end of "one week").

Regarding claim 7, Hunter in view of Weaver discloses the method as discussed in the rejection of claim 102. Hunter in view of Weaver further discloses the at least one full movie selected by the user is available for viewing for a limited of time (e.g. 24 hour – see Hunter: par. 0161 or see Weaver: 0046).

Regarding claim 8, Hunter in view of Weaver discloses the method as discussed in the rejection of claim 102. Hunter in view of Weaver further discloses the movie selected by the user is available for viewing for a limited number of times (e.g. three plays – Hunter: par. 0161).

Regarding claim 9, Hunter in view of Weaver discloses the method as discussed in the rejection of claim 102. Hunter in view of Weaver further discloses "re broadcasting movie data previously broadcast to ensure that the at least one full movie is received" (e.g. release movies are transmitted every 30 minutes from 5:30 pm to 8:30 pm, and several other times daily – paragraphs 0119, 0139, 0213-0216). As a result, the set top box (user station) receives full movie. Weaver discloses the movie data is packetized as discussed in the rejection of claim 4.

Regarding claim 10, Hunter discloses a method of wirelessly broadcasting movies to a

set top box (discussed in the rejection of claim 4), the method comprising:

wirelessly broadcasting movie data to a set top box for automatic storage on the

set top box of the movie data and assembly of the movie data to form a plurality of full

movies (see discussion in the rejection of claim 4 and par. 0139);

making selected movies available for viewing at a time based on one or more

factors including: programming stored in the set top box, signal information assembled

from the movie data or a combination thereof (e.g., making selected movie available for

viewing at a time based on one or more factor such as at the time the recordings are

available, or storage level, or time set by content provider – see include, but not limited

to, par. 0139, 0141-0142, 0144, 0161);

effecting removal of the movie data representing one or more movie stored on

the set top box at a later time based on one or more factors including: programming

stored in the set top box, signal information assembled from the movie data or a

combination thereof (effecting removal of the movie data representing one or more

movie stored on the set top box at a later time based on one or more factors including:

storage is full, or time period (e.g., one week) is expired, etc. - see include, but not

limited to, par. 0139, 0141-0144, 0161).

Hunter is silent about movie data is packetized movie data, incrementally

assembly of the packetized movie data.

Weaver discloses movie data is provided as packetized movie data, and incrementally

assembly of the packetized movie data to form original data (provided content as

packets of content, wherein the content refers to any electronic file or application

including video, video games, etc. the packets of content are recompiled/reassembled

into original data - include, but not limited to, discussion in the rejection of claim 4, and

par. 0118, 0021, figure 8). Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify Hunter with the teaching as

taught by Weaver in order to yield predictable results such as to improve efficiency data

transmission.

Regarding claims 105-108, the additional limitations that correspond to the additional

limitations of claims 101-104 are analyzed as discussed with respect to rejections of

claims 101-104.

Regarding claim 11, Hunter in view of Weaver discloses a method as discussed in claim

106. Hunter in view of Weaver further discloses the broadcast provider controls

downloading of movie into the storage device, and controls the available time of the

downloaded movies (see Hunter: par. 0139 or Weaver: par. 0017). A skilled person in

the art can select any time before making the stored movie available depend on the

capability and characteristics of the transmission medium, device limitations, times,

operator's desire. Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Hunter in view of Weaver to include

storing the packetized movie data for a particular movie at any time period such as at

least one day, before making the movie available for viewing so long as the time desired

is limited to the capability and/or characteristics of the transmission medium and/or

device limitations and/or operator desire to improve efficiency of movie services.

Regarding claim 12, Hunter in view of Weaver discloses a method as discussed in claim

106. Hunter in view of Weaver further discloses packetized movie data for a particular

movie comprises audio and video to from the particular movie and associated metadata

(see Hunter: par. 0065, 0144, lines 23-31; Weaver: par. 0017-0018, 0025, 0068).

Regarding claim 13, Hunter in view of Weaver discloses a method as discussed in claim

12. Hunter in view of Weaver further discloses the particular movie comprises new

release (par. 0013) and the claims feature of "the associated metadata includes the

official release date for the new release" is broadly met by the time/date indicates the

availability of the recorded movies for playback— see include, but not limited to, Hunter:

par. 0013).

Regarding claim 14, Hunter in view of Weaver discloses a method as discussed in claim

106. Hunter in view of Weaver further discloses the packetized movie data is broadcast

to the set top box using standard files transfer protocols (e.g. MPEG-2, Hunter: par.

0121; Weaver: par. 0021, 0037).

Regarding claims 15-16, the additional limitation as claimed corresponds to the

additional limitation as claimed in claims 9, 5 respectively, and are analyzed as

discussed with respect to the rejection of claims 9 and 5.

Regarding claim 18, Hunter discloses a method of wirelessly broadcasting movie

content to a set top box (user station), the method comprising:

       selectively broadcast data wirelessly to a set top box for assembly into video

content and associated metadata (data are selected and automatically downloaded to

storage module of user station by content provider and/or system operator via wireless

network i.e. satellite, the data are arranged into video content and associated metadata

such as header information, program title, time, etc. – par. 0065, 0073, 0075, 0076,

0139, figures 11-14, 23);

       remotely effecting availability of the video content so that the video content is

viewed at a time based on one or more factors including: programming stored in the set

top box, the metadata associated with the particular video content or a combination

thereof (see discussion in the rejection of claim 10, wherein "remotely" is read on user

using remote control or content provider or operator alerts the customer that the

recordings are available (par. 0139, par. 0147) or certain new release movie is

designated to remain in storage for minimum period of time regardless of traffic through

the storage (paragraph 0144, lines 23-31) ;

       remotely effecting removal of the video content stored after assembly on the set

top box at a later time based on a variety of factors including at least one of:

programming stored in the set top box, the metadata associated with the particular

video content or a combination thereof (see discussion in rejection of claim 10, wherein

"remotely" is read on using remote control by user or control by content

provider/operator.)

Hunter is silent about packetized data and incrementally assembly packetized

data.

Weaver discloses packetized data, and incrementally assembly of the packetized

data (packets of content, wherein the content refers to any electronic file or application

including video, video games, etc. the packets of content are recompiled/reassembled

into original data - include, but not limited to, discussion in the rejection of claim 4, and

par. 0118, 0021, figure 8). Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify Hunter with the teaching as

taught by Weaver in order to yield predictable results such as to improve efficiency data

transmission.

Regarding claim 109, the additional limitations that correspond to the additional

limitations of claim 101 are analyzed as discussed in the rejection of claim 101.

Regarding claim 19, Hunter in view of Weaver discloses a method as discussed in claim

109. Hunter in view of Weaver further discloses permitting selecting a time to view the

video content during an available access time (permitting user selecting a recorded

movie on the list to view on television set (32) when the movie is available (not been

removed/deleted or after alert "You've got flicks" or within limit date or within limit

number of plays– Hunter: figure 11, par. 0013, paragraph 0151, paragraphs 0139, 0144,

0161; Weaver: paragraphs 0046, 0043).

Regarding claim 20, Hunter in view of Weaver discloses a method as discussed in claim

109. Hunter in view of Weaver further discloses wherein payment for viewing of the

video content is made through a wireline (e.g., telephone line or cable - see include, but

not limited to, Hunter: figure 11, par. 0156; Weaver: par. 0039, 00430063).

Regarding claim 21, Hunter in view of Weaver discloses a method as discussed in claim

109. Hunter in view of Weaver further discloses Hunter further discloses selectively

broadcasting data comprises determining the packetized data to be broadcast

wirelessly to the set top box (content provider/broadcaster controls content sent to users

-see include, but not limited to, Hunter: figure 11, par. 0139-par. 0142; Weaver:

paragraphs 0017-0021).

Regarding claims 22, 110 and 111, the additional limitations that correspond to the

additional limitations of claim 102-104 are analyzed as discussed in the rejections of

claims 102-104.

Regarding claim 23, Hunter teaches a method of content management for a remote

hardware device (user station), the method comprising:

collecting content to be transmitted to a remote hardware device (collecting

movie data such as new release movies, very popular movie, user interest movie, to be

transmitted to the user station – paragraphs 0012- 0013, 0139);

generating metadata specifying various properties of the content (generating

header information, price, scheduling data, designated time for movie to be remain in

the storage, catalogs, etc. for the movie – par. 013, 0144, lines 23-31 figure 11);

associating the metadata with the content (associating scheduling data, price,

designated time for movie to remain in the storage, etc. with the movie – figures 11-12,

par. 0013-0014, paragraph 0144, lines 23-31);

transmitting the content data and its associated metadata to the remote hardware

device (transmitting the movie data and its price, scheduling data, etc. to the user

station – figures 11, 15, par. 0061, paragraphs 0139, 0144, lines 23-31, paragraph

0145);

transmitting software for operating on the remote hardware device to process the

metadata and manage the content according to its associated metadata including

assembly of the metadata and content (transmitting software for operating on the user

station to process metadata such as scheduling data, price data, header information,

etc. so that the movie associated with the selected data to be playback/recorded, the

movie is selected to received based on its ID header information, or movie is selected to

remain in storage based on designated time regardless of traffic through the storage –

par. 0065-par. 0075, par. 0139, paragraph 0144, lines 23-31, 0153). However, Hunter is

silent about packetizing the metadata and the content, transmitting packetized content

data and incrementally assembly of metadata and content from a packetized form.

Weaver discloses packetizing metadata and content, transmitting the packetized

content and metadata, and incrementally assembly of the metadata and content from a

packetized form (packetizing content and associated metadata such as information

header, time, pricing, etc. of content, wherein the content refers to any electronic file or

application including video, video games, etc. the packets of content are

recompiled/reassembled into original data - include, but not limited to, discussion in the

rejection of claim 4, and par. 0118, 0021, figure 8). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify

Hunter with the teaching as taught by Weaver in order to yield predictable results such

as to improve efficiency data transmission.

Regarding claims 112-115, the additional limitations that correspond to additional

limitations of claims 101-104 are analyzed as discussed in the rejections of claims 101-

104.

Regarding claim 24, Hunter in view of Weaver discloses a method as discussed in claim

113. Hunter further discloses the customer is alerted that the recordings are available

(par. 0139). The movie data is recorded with a limited date (par. 0161, paragraph 0144,

lines 23-31). Thus, the metadata comprises information indicating a time to make

content data available and time to remove content data from the hard device so that the

cue is displayed when the recording is available and when the content is oldest content,

less likely to be purchased content, or the designated time to remain the content in

storage is expired. Also see - Weaver: par. 0046, 0043).

Regarding claim 25, the additional limitation as claimed corresponds to the additional

limitation as claimed in claim 9, and are analyzed as discussed with respect to the

rejection of claim 9. Weaver discloses content data transmitted in packets as discussed

in the rejection of claim 4.

Regarding claim 26, Hunter teaches a method for providing movies available for

purchase or rental through broadcast communication (figure 11), the method

comprising:

    broadcasting movie data to a set top box and allowing the movie data to

accumulate on the hard drive (figure 11, par. 0138-par. 0139);

    transmitting software to the set top box (see include, but not limited to, par. 0153-

software has to be transmitted to set top box before it is stored in the set top box), the

software being adapted to: automatically store the movie data (figure 11, par. 0139, par.

0083);

    assemble the movie data broadcast into a plurality of viewable movies and

associated metadata (forming the list of available movies so that the user can select an

associated information to view the movie - par. 0083-par. 0089, par. 0148);

analyzing the metadata to determine a time a movie should be made available

(analyzing header information to indicate alerts to customer that the recordings are

available – par. 0139, par. 0147, par. 0161, or designated time to remain content in the

storage (paragraph 0144, lines 23-31). Also see discussion in rejection of claim 10);

allowing the user to select at least one of the plurality of viewable movies if

available (par. 0139, par. 0147-par. 0151, 0161).

Hunter is silent about movie data is packetized movie data, incrementally assembly of

the packetized movie data.

Weaver discloses movie data is provided as packetized movie data, and incrementally

assembly of the packetized movie data to form original data (provided content as

packets of content, wherein the content refers to any electronic file or application

including video, video games, etc. the packets of content are recompiled/reassembled

into original data - include, but not limited to, discussion in the rejection of claim 4, and

par. 0118, 0021, figure 8). Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify Hunter with the teaching as

taught by Weaver in order to yield predictable results such as to improve efficiency data

transmission.

Regarding claims 116, the additional limitation that correspond to the additional

limitation of claim 101 are analyzed as discussed in the rejection of claim 101.

Regarding claim 27, Hunter in view of Weaver discloses a method as discussed in claim 116. Hunter in view of Weaver further discloses the movies are to be available for a limited time (e.g. 24 hours, one week, etc.) and thereafter are essentially to be removed (Hunter: par. 0144, par. 0161; Weaver: par. 0046).

Regarding claim 28, Hunter in view of Weaver discloses a method as discussed in claim 118. Hunter in view of Weaver further discloses the movies are to be encrypted to limit availability in at least one of the following respects: being copied multiple times, being viewed more than once, or being viewed or copied other than if condition access is provided (see Hunter: par. 0138, lines 20-21; par. 0150, par. 0163; Weaver: paragraphs 0045-0046).

Regarding claim 29, the additional limitation as claimed corresponds to the additional limitation as claimed in claim 102, and are analyzed as discussed with respect to the rejection of claim 102.

Regarding claims 117-118, the additional limitations that correspond to the additional limitations of claims 103--104 are analyzed as discussed in the rejections of claims 103-104.

Regarding claim 30, the limitations of the method of creating a digital home movie library that correspond to the limitations of the method for broadcasting movies in claim

10 are analyzed as discussed with respect to the rejection of claim 10. Furthermore,

Hunter in view of Weaver also discloses receiving packetized movie data wirelessly

broadcast to at least one set top box (see Hunter: figure 11, par. 0139; Weaver: figure

2-8; par. 0017, 0018, 0025) and making the one or more movies available via the set

top box for a time period managed at least in part by software executed by the at least

one set top box (see include, but not limited to, Hunter: figure 11, par. 0139, 0144,0161;

Weaver: par. 0043, 0046, 0057, 0068).

Regarding claims 31-35, the limitations as claimed correspond to the limitations as

claimed in claims 27-29,20-21 respectively, and are analyzed as discussed with respect

to the rejections of claims 27-29 and 20-21.

Regarding claims 119-121, the additional limitations that correspond to the additional

limitations of claims 101, 103-104 are analyzed as discussed in the rejection of claims

101, 103-104.

Regarding claims 37, Hunter discloses a method of distributing movies comprising:

        broadcasting movie and associated data capable of being used to assemble at

least one full movie to a set top box wirelessly prior to an official release date for the at

least one full movie, the associated data for regulating the release date of the at least

one full movie on the set top box (see include, but not limited to, figure 11-16, par. 0139,

0144, 0161 wherein official release date is interpreted as the date the recorded movie is

available for viewing, the associated metadata is interpreted as header information, title,

time, price, etc. that are used to arrange, maintain the content data and indicating

existing of movie in order for the content to be selected to view or to be maintained or

removed from the storage);

automatically storing the movie and associated data to the set top box hard drive

(see include, but not limited to, par. 0139, 0144, 0161);

assembling and analyzing the associated data to determine a time the at least

one full movie should be available for viewing (see include, but not limited to, par. 0139,

0144, 0161);

permitting viewing of the at least one full movie on its release date (par. 0139,

0144, 0161).

However, Hunter is silent about movie data is packetized movie data.

Weaver discloses movie data is provided as packetized movie data, and assembly of

the packetized movie data to form original data (provided content as packets of content,

wherein the content refers to any electronic file or application including video, video

games, etc. the packets of content are recompiled/reassembled into original data -

include, but not limited to, discussion in the rejection of claim 4, and par. 0118, 0021,

figure 8). Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Hunter with the teaching as taught by Weaver in

order to yield predictable results such as to improve efficiency data transmission.

Regarding claims 122-125, the additional limitations that correspond to the additional

limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-

104.

Regarding claim 41, Hunter discloses a digital home movie library system for providing

access to movies comprising:

   antenna (antenna 24 and tuner(s) in the user station (228)) for receiving movie

data and metadata via wireless broadcast signal – figure 11, paragraphs 0128-0129,

139, 144, 161);

   a hard drive for storing the received movie data and received metadata (storage

module 230 – see include, but not limited to, figure 11, par. 0128-0138 and discussion

in the rejection of claim 23); and

   a processor (CPU/CODEC) for executing software to process the received data

and to process user input command, the processor permit access to the stored movie

data under conditions based at least in part on the metadata, the movie data, the

software, or any combination thereof (see include, but not limited to, figures 2, 11, par.

0128-0139, par. 0144, 0161).

However, Hunter is silent about movie data and metadata are packetized.

   Weaver discloses movie data movie data and metadata are packetized and

received at a receiver (see include, but not limited to, par. 0118, 0021, figures 3, 8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Hunter with the teaching as taught by Weaver in order to

yield predictable results such as to improve efficiency data transmission

Regarding claims 126-129, the additional limitations that correspond to the additional

limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-

104.

Regarding claim 42, Hunter in view of Weaver discloses a method as discussed in claim

127. Hunter in view of Weaver further discloses a modem (see Hunter: figures 4, 11)

permit electronic billing for access to the library.

Regarding claims 52-59, the limitations that correspond to the limitations of claims 4-5,

7-8, 10, 15-16, 18 are analyzed as discussed with respect to the rejection of claims 4-5,

7-8, 10, 15-16, 18.

Regarding claims 134-145, the additional limitations that correspond to the additional

limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-

104.

Regarding claims 61 and 63, the limitation that correspond to the limitations of claims

56, 54, and are analyzed as discussed with respect to the rejection of claims 56, 54,

wherein "wireless telecommunication over a television frequency spectrum" is read on

satellite or wireless communication over television frequency spectrum in wireless

communication (Hunter: figure 11); and "without interaction by a user" is read on

automatically without interaction of user at user station/set top box (par. 0139).

Regarding claims 72-75, the limitations as claimed correspond to the limitations as

claimed in claims 4-5, 7, 9, and are analyzed as discussed with respect to the rejection

of claims 4-5, 7, 9.

Regarding claims 146-149, the additional limitations that correspond to the additional

limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-

104.

Regarding claim 76, Hunter further discloses modem (87- figure 4 or billing module

240/Internet access interface 235 – figure 11) reads on the claimed modem, wherein

the feature of "periodical permit contact with the content provider" is met by video

distribution system operator periodically receives viewed-content information for billing

(par. 0103, lines 16-19).

Regarding claim 77, Hunter further discloses information passed between the content

provider and the set top via the modem includes at least one of a user's viewing/rental

history, access information used for billing purposes, keys used to decrypt videos

(figures 10-11, par. 0103).

Regarding claim 79, Hunter further discloses the hard drive in the set top box stored pay

per view program and the CPU of the set top box controls the operation of a hard drive

(figures 4, 11, par. 0128). It is obvious to one of ordinary skill in the art that hard drive is

physically mated with the set top box structure to render it useless for its intended

storage purpose if removed for use apart from the set top box in order to reduce

unauthorized use.

Regarding claim 80, Hunter in view of Weaver discloses a method as discussed in claim

109. Hunter in view of Weaver further discloses the packetized stored on the set top box

is encrypted, and upon or after video content to view and satisfaction of business rules,

remotely permitting the set top box to decrypt the packetized video data and play the

video content (see include, but not limited to, Hunter: paragraphs 0128,0138,0150;

Weaver: paragraphs 0043, 0046, 0057).

Regarding claim 81, Hunter in view of Weaver discloses a method as discussed in claim

109. Hunter in view of Weaver further discloses the packetized video data is capable of

being decrypted by electronic keys on the set top box based at least in part on the

current status (Hunter par. 0079-par. 0083, 128; Weaver: figures 6-8; par. 0045,0057).

Regarding claim 82, Hunter in view of Weaver discloses a method as discussed in claim

109. Hunter in view of Weaver further discloses logging a decryption of a video content

and using the log to determine a user's bill (Hunter: par. 0089-par. 0096; par. 0061;

Weaver: paragraphs 0043,0057, 0068).

Regarding claim 83, the content provider controls when to download the movies and

associated information to the set top box at receiving side (paragraph 0139); the movies

is stored in storage device until the content provider controls to download new movies to

the storage device. Certain movies in high demand within the customer primary areas of

interest may be designated to remain in storage for a minimum period of time, say one

week, regardless of the "traffic" through storage device (paragraph 0144). Thus, the

content provider inherently wirelessly transmits metadata (e.g.,. information in new

movie to be downloaded or information used to maintain the movie in storage for a

period of time, say one week, regardless of traffic through the storage) to a set top box

(i.e. set top box 228- figure 11), the metadata being associated with content data

previously having been wirelessly transmitted and stored on the set top box, the

metadata being utilized by the set top box to determine a time, along wit one or more

factors including programming stored in the set top box, to delete the stored content

data (information is used to determine at time to delete oldest content, delete content

that less likely to be purchased, or information to identify content to be deleted after a

minimum period of time, say one week, regardless of the "traffic" through the storage).

However, Hunter is silent about movie data and metadata are packetized.

Weaver discloses movie data movie data and metadata are packetized and

received at a receiver (see include, but not limited to, par. 0118, 0021, figures 3, 8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hunter with the teaching as taught by Weaver in order to yield predictable results such as to improve efficiency data transmission.

Regarding claims 150-153, the additional limitations that correspond to the additional limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-104.

Regarding claim 84, Hunter in view of Weaver discloses a method as discussed in claim 151. Hunter in view of Weaver further discloses the metadata comprises a date on which the set top box is authorized to initiate deletion of the packetized content data (e.g. after minimum period of time, say one week, for certain movie that remain in the storage with designated time period of one week regardless of the traffic through the storage or the date the new movie is transmitted to replace to oldest movie stored in the storage at the set top box (Hunter: paragraphs 0139, 0144; Weaver: 0043, 46).

Regarding claim 85, Hunter in view of Weaver discloses a method as discussed in claim 151. Hunter in view of Weaver further discloses the content data previously stored on the set top box is wireless transmitted remotely from the content provider (paragraphs 0139, 0141 figure 11).

Regarding claim 86, Hunter in view of Weaver discloses a method as discussed in claim

151. Hunter in view of Weaver further discloses the content data previously stored on

the set top box is loaded without being wirelessly transmitted remotely from the content

provider (e.g., DVD or a storage device - paragraphs 0012, 129, 0139, 0141, 0143,

0161).

Regarding claim 87, Hunter in view of Weaver discloses a method as discussed in claim

151. Hunter in view of Weaver further discloses deletion of content is not depend on a

desire to make room for new content (overwrite the less likely to be purchased movies

ahead of those recordings (independent of making room) which, by analysis at module

340, show more promise of being viewed by the customer – Hunter: paragraph 0144,

lines 23-27), or certain new release movies is designated to remain in the storage for a

minimum period of time, say one week, regardless of the "traffic" through storage

module – Hunter: paragraph 0144, lines 28-32 or after a allow number of times, or allow

period - see Hunter: 0161; or see Weaver: 0046).

Regarding claim 88, Hunter discloses the content provider controls when to download

the movies and associated information to the set top box at receiving side (paragraph

0139, 0144, 0161); the movies is stored in storage device until the content provider

controls to download new movies to the storage device. Certain movies in high demand

within the customer primary areas of interest may be designated to remain in storage for

a minimum period of time, say one week, regardless of the "traffic" through storage

device (paragraphs 0144, 0161). Thus, Hunter inherently discloses the method of

remotely deleting content from a set top box (deleting content in the set top box by

content provider or operator) comprising:

composing an instruction to delete movie content data previously stored on a set top

box for movie formed from movie content data having a movie score in a particular

range(e.g. composing designated time to remain the movie of the set top box,

composing information for new content to be downloaded, or instructions to indicate

number of time the movie is allowed to be played – paragraphs 0139, 0144, 161); and

wirelessly transmitting metadata including the instruction to the set top box, the set top

box having logic therein to assemble the instruction from the metadata, interpret the

instruction and execute the instruction (transmitting associated information including

designated time of certain movie to store in the storage regardless of the traffic, and as

a result, the certain content is deleted based on interpreted designated time regardless

of the "traffic" through the storage or number of times the stored video allowed to be

played – paragraphs 0139, 0144, 0161).

However, Hunter is silent about movie data and metadata are packetized.

Weaver discloses movie data movie data and metadata are packetized and received at

a receiver (see include, but not limited to, par. 0118, 0021, figures 3, 8). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was

made to modify Hunter with the teaching as taught by Weaver in order to yield

predictable results such as to improve efficiency data transmission.

Regarding claims 154-157, the additional limitations that correspond to the additional
limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-
104.

Regarding claims 89-90, the additional limitations as claimed correspond to the
additional limitations as claimed in claims 85-86, and are analyzed as discussed with
respect to the rejection of claims 85-86.

Regarding claims 91-94, the limitations as claimed correspond to the limitations as
claimed in claims 83-86, wherein the limitation "to delete the content" correspond to "to
make the content unavailable to a user", and are analyzed as discussed with respect to
the rejection of claims 83-86.

Regarding claims 158-161, the additional limitations that correspond to the additional
limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-
104.

Regarding claim 95, Hunter discloses a method for displaying available movies stores
on a set top box (paragraph 0151, 139), comprising:

receiving a plurality of movies in form of wirelessly transmitted movie data
(paragraph 0139);

receiving a plurality of sets of metadata, each of the sets of metadata being associated with one of the plurality of the movies, the plurality of sets of metadata being received in the form of wirelessly transmitted metadata (receiving ID header information of the movie, title of the movie, designated time to remain certain movie in the storage regardless of the traffic, catalog of the movie, type of content, etc. – paragraphs 0139 – 0148);

assembling the plurality of sets of metadata from the wirelessly transmitted metadata (see discussion in the rejection of claim 26);

Hunter further discloses identifying the selected movies (i.e. popular movies, new release movie, user interested movies,) to be downloaded to the storage, provide a cue to alert user that certain movie is available so the user can selected to watch – paragraph 0139, or identifying the oldest movie, less likely to be purchased movies to removed/deleted from the storage, or identifying certain movie to remain in storage using designated time period (paragraph 0144), listing menu of available movies on the screen (paragraph 0151). Inherently, each of the sets of metadata must be analyzed to determine a time, using the metadata along with one or more factors including programming stored in the set top box to display a particular movie associated with the particular set of metadata in a listing of available movies to be displayed for viewing in a user interface associated with the set top box so the user can select the movie to watch.

However, Hunter is silent about movie data and metadata are packetized. Weaver discloses movie data movie data and metadata are packetized and received at a receiver (see include, but not limited to, par. 0118, 0021, figures 3, 8). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hunter with the teaching as taught by Weaver in order to yield predictable results such as to improve efficiency data transmission.

Regarding claims 162-165, the additional limitations that correspond to the additional limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-104.

Regarding claims 96-97, Hunter in view of Weaver discloses a method as discussed in claim 163. Hunter in view of Weaver further discloses the particular set of metadata comprises is a date on which the set top box is authorized to display the particular movie (e.g. the date or time within one week period designated to remain the certain movie in the storage regardless of the traffic through the storage- paragraph 0144, lines 23-32, par. 0161. Inherently, during this period, the set top box is authorized to select the movie to display).

Regarding claim 98, the limitations that correspond to the limitations of claims 95-97 are analyzed as discussed with respect to the rejection of claims 95-97. Hunter further discloses selecting and providing popular movies, user interested movies, new release movies, etc. with associated data such as designated time period to remain certain movie in the storage device (paragraphs 0139 –0148). Thus, a pre-determined criteria and metadata (e.g. associated information of popular movie, new release movie,

designated time to remain certain movie in storage, etc.) is established and composed

so the desired movie is identified and displayed;

wirelessly transmitting content associated with the metadata to the set top box so

that the metadata is capable of being assembled and analyzed to determine if the

predetermined criteria is met for particular content (e.g. wirelessly transmitting new

release movie, popular movie, user interested movies) to the set top box and storing

and/or displaying particular content according to header information, time, title, etc.

(figure 11, paragraphs 0139 –0148, 0161).

Regarding claims 99-100, the limitations as claimed correspond to the limitations as

claimed in claims 96-97, and are analyzed as discussed with respect to the rejection of

claims 96-97.

Regarding claims 166-169, the additional limitations that correspond to the additional

limitations of claims 101-104 are analyzed as discussed in the rejection of claims 101-

104.

9.   Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter

et al. (US 2002/0056118) and Weaver as applied to claim 76 above, and further in view

of Dodson et al. (US 6,184,877).

Regarding claim 78, Hunter in view of Weaver discloses a system as discussed in the

rejection of claim 75. Hunter further discloses a processor (CPU) plays a video and

reacts to signals from a remote control (figures 4, 11, par. 0072-par. 0076), and activity

modem (modem 87, figure 4, or modem 650 –figure 23). However, Hunter in view of

Weaver does not specifically disclose simultaneously plays a video and reacts to signal

from a remote control.

Dodson discloses the processor (e.g. controller) simultaneously plays a video (video

being displayed on the TV) and reacts to signals from a remote control (remote control

206), and modem activity (internet interface 106) – see figures 1, 1-8, col. 2, line 46-col.

3, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Hunter in view of Weaver to incorporate the

teaching as taught by Dodson in order to immediately provide additional information to

the user (col. 1, lines 40-55), and allow user to simultaneously watch the program and

additional information on the same screen.

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

        Cruz-Riveral et al. (US 2003/0066093) discloses method and apparatus for

circular broadcasting an audio and video signal.

Krause (US 5,612,742) discloses method and apparatus for encoding and
formatting data representing a video program to provide multiple overlapping
presentations of the video program.

11.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to SON P. HUYNH whose telephone number is (571)272-
7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone
number for the organization where this application or proceeding is assigned is 571-
273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a
USPTO Customer Service Representative or access to the automated information
system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/   July 2, 2009
Primary Examiner, Art Unit 2424